

## **REMARKS**

### **STATUS OF CLAIMS**

In response to the Office Action dated March 17, 2008, claims 1-3, 7, 12-16, 18, 20, 25 and 26 have been amended. Claims 1-26 are now pending in this application. No new matter has been added.

### **AMENDMENTS**

Minor amendments have been made to claims 1-3, and 15 changing “file name relating to the piece of the image data” to “file name relating to the data” and similarly amending claims 14, 16 and 18 to correct minor translation errors. These claim amendments are non-narrowing claim amendments.

### **CLAIM OBJECTIONS**

Claims 7, 12, 13, 20, 25 and 26 have been objected to as being improper dependent claims for failing to further limit the subject matter of a previous claim.

Claims 7 and 20 have been amended to change “...acquires a piece of code information...” to “...acquiring a piece of code information...” to correct a minor clerical error. The claim amendments are a non-narrowing claim amendments.

By this Response, claims 12, 13, 25 and 26 have been amended to include the subject matter recited in the claim that was respectively referred to in each of these claims. Therefore, withdrawal of this objection is respectfully solicited.

**REJECTION OF CLAIMS UNDER 35 U.S.C. § 101**

Claims 7 and 20 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner maintains that the claims are directed to a system comprising software per se.

The rejections are respectfully traversed.

Claim 7, as amended, recites:

An information transmitter that transmits information to outside, comprising:

- an image pickup unit for picking up an image;
- a code acquisition means for acquiring a code which is possessed on said image from a piece of image data obtained by picking up an image by the image pickup unit;
- an analyzing means for analyzing the code acquired by the code acquisition means and acquiring a piece of code information; and
- a transmission means for transmitting to outside the piece of code information acquired by the analyzing means.

Claim 20, as amended, recites:

An information transmitter that transmits information to outside, comprising:

- an image pickup unit for picking up an image;
- a code extraction unit for acquiring a code which is possessed on said image from a piece of image data obtained by picking up an image by the image pickup unit for picking up an image;
- a decoding unit for analyzing the code which is processed on said image thus acquired and acquiring a piece of code information; and
- a communication unit for transmitting the acquired piece of code information to outside.

In the Office Action, the Examiner has provided no analysis of the claims and how the claims have been interpreted as being directed to a system comprising software per se. In actuality the rejection consists of only a announcement by the Examiner that the claims are

directed to a system comprising software per se. Such announcement is contradictory to what is recited in the claims.

It is submitted that at least an image pickup unit for picking up an image, a transmission means for transmitting to outside the piece of code information acquired by the analyzing means and a communication unit for transmitting the acquired piece of code information to outside are not software, but specific apparatus elements. Given such specific apparatus elements that are a portion of these claims, it is submitted that the Examiner can not merely announce that the claims are directed to a system comprising software per se, as such announcement, without supporting evidence of record, is merely the opinion of the Examiner, which cannot sustain the present rejection.

**REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103**

Claims 1-26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Igarashi et al. (U.S. Published Application No. 2004/0122866). Claims 4 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Igarashi et al. in view of Hatanaka (U.S. Patent No. 6,438,320). It is presumed that the Examiner did not intend to include claims 4 and 17 in the § 102 rejection since no specific reference to claims 4 and 17 has been made, and claims 4 and 17 have been rejected under 35 U.S.C. § 103(a). The rejections are respectfully traversed.

Igarashi et al. relates to a data control structure rewriting program for writing in data relating to images by means of a structure which can easily be utilized for other memory means. This subject matter is different from that of the inventions recited in the claims of the present application.

The invention recited in independent claim 1 has, *inter alia*, an image pickup unit for picking up an image and an extraction means for *extracting a piece of code information which is possessed on said image data from a piece of image data* acquired by picking up an image by the image pickup unit. Independent claims 2, 7, 12, 13, 20, 25 and 26 recite similar subject matter. Similarly, the invention recited in independent claim 14 has, *inter alia*, an image pickup unit for picking up an image and a controller capable of *extracting a piece of code information which is possessed on said image from a piece of image data* acquired by picking up an image by the image pickup unit. Independent claim 15 recites similar subject matter. Igarashi et al. has no disclosure or suggestion regarding extracting a piece of *code* information which is possessed on said image from a piece of image data that has been pickup up by, for example, a camera. Such code information would correspond, for example, to a code such as depicted in Fig. 2 (101, 102...) of the present application.

Thus, independent claims 1, 2, 7, 12-15, 20, 25 and 26, as well as the dependent claims are patentable over Igarashi et al.

In the present invention, the code information extracted by the extracting means is possessed originally on the image that is picked up by the image pick up unit and the extracting means extracts the piece of code information based on the image that is picked up by the image pick up unit.

The Office Action alleges that the “folder name generating means” of Igarashi corresponds to the “extracting means.” However, the “folder name generating means” of Igarashi extracts common defined information which is possessed on image data generated from the image that has been picked up by an image pick up device, such as a digital camera and a

camera-fitted cell phone. See paragraphs [0060] and [0066]-[0069] of Igarashi. In other words, common defined information extracted by the “folder name generating means” of Igarashi is not possessed originally on the image that is picked up by the image pick up unit. Thus, Igarashi does not extract information based on the image that is picked up by an image pick up device, such as a digital camera and a camera-fitted cell phone. Hatanaka fails to cure the deficiencies of Igarashi. Thus, the applied references, alone or in combination, fail to teach or suggest the recited features of independent claims 1, 2, 7, 12-15, 20, 25 and 26.

For at least the reasons stated above, independent claims 1, 2, 7, 12-15, 20, 25 and 26 are patentably distinct from the applied references. The dependent claims are at least allowable by virtue of their dependence on corresponding allowable independent claims 1, 2, 7, 12-15, 20, 25 and 26.

Accordingly, withdrawal of the rejections of the claims based on the applied references is respectfully requested.

## **CONCLUSION**

In view of the above, Applicant(s) believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No.: 10/583,273  
Reply to Office Action of March 17, 2008

Docket No.: 1560-0460PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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